

1 **WILLKIE FARR & GALLAGHER LLP**

2 Benedict Y. Hur (SBN: 224018)
3 Simona Agnolucci (SBN: 246943)
4 Eduardo E. Santacana (SBN: 281668)
5 Tiffany Lin (SBN: 321472)
6 Yuhan Chi (SBN: 324072)
7 One Front Street, 34th Floor
8 San Francisco, CA 94111
9 Telephone: (415) 858-7400
10 Facsimile: (415) 858-7599
11 bhur@willkie.com
12 sagnolucci@willkie.com
13 esantacana@willkie.com
14 tlin@willkie.com
15 ychi@willkie.com

16 **Attorneys for**
17 **GOOGLE LLC**

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO**

21 JANE DOE, individually and on behalf of all
22 others similarly situated,

Case No.: 3:23-cv-00059-WHO

23 Plaintiff,
24 v.

25 **GOODRX DEFENDANT GOOGLE**
26 **LLC'S OPPOSITION TO META**
27 **PLATFORMS, INC.'S**
28 **ADMINISTRATIVE MOTION TO**
29 **CONSIDER WHETHER CASES**
30 **SHOULD BE RELATED**

31 HEY FAVOR, INC., FULLSTORY, INC.,
32 META PLATFORM, INC., TIKTOK, INC.,
33 and BYTEDANCE INC.

34 CLASS ACTION

35 Defendants.

1 **I. INTRODUCTION**

2 Google LLC (“Google”) files this opposition to Defendant Meta Platforms, Inc.
 3 (“Meta”)’s Administrative Motion to Consider Whether Cases Should be Related, filed on
 4 February 17, 2023 (ECF No. 44). Google opposes Meta’s request to relate *Jane Doe v. GoodRx*
 5 *Holdings, Inc. et al.*, Case No. 3:23-cv-00501-LB (“GoodRx”), in which Google is a defendant,
 6 to the above-captioned action, *Jane Doe v. Hey Favor, Inc. et al.*, Case No. 3:23-cv-00059-
 7 WHO (“Favor”), to which Google is not a party.

8 **II. LEGAL STANDARD**

9 Pursuant to Northern District of California Local Rule 3-12(a), “[a]n action is related to
 10 another when: (1) The actions concern substantially the same parties, property, transaction or
 11 event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and
 12 expense or conflicting results if the cases are conducted before different Judges.” L.R. 3-12(a).

13 **III. ARGUMENT**

14 Google opposes Meta’s motion to relate *GoodRx* to *Favor*. *GoodRx* and *Favor* do not
 15 “concern substantially the same parties, property, transaction, or event,” and, due to the
 16 foregoing, keeping the cases separate would not cause any duplication of labor, expense, or
 17 conflicting results.

18 **A. *GoodRx* and *Favor* Concern Substantially Different Parties, Property,
 19 Transaction, and Event**

20 First, the two actions involve different parties. Meta is the *sole* common party across
 21 both cases. None of the four other defendants in *Favor*—Hey Favor, Inc. (“Favor”); FullStory,
 22 Inc. (“FullStory”); TikTok, Inc.; and ByteDance Inc. (together with TikTok, Inc., “TikTok”)—
 23 are parties to *GoodRx*. Similarly, none of the other three defendants in *GoodRx*—Google;
 24 GoodRx Holdings, Inc. (“GoodRx”); and Criteo Corp. (“Criteo”)—are parties to *Favor*. See
 25 *Adobe Sys. Inc. v. A&S Electronics*, 2016 WL 9105173, at *3 (N.D. Cal. 2016) (declining to
 26 relate two cases in which only one party was the same); *Target Therapeutics, Inc. v. SciMed*
 27 *Life Systems, Inc.*, 1996 WL 241692, at *13 (N.D. Cal. May 2, 1996), *rev’d on other grounds by*

1 *Target Therapeutics, Inc. v. Cordis Endovascular Systems, Inc.*, 113 F.3d 1256 (Fed. Cir. 1997)
 2 (denying motion to relate because “[w]hile some of the parties in the instant case are the same . . .
 3 . the other action involves parties not present here.”); *cf. Par Pharmaceutical, Inc. v. Takeda
 4 Pharmaceutical Co., Ltd.*, 2013 WL 12221673, at *1 (N.D. Cal. Oct. 28, 2013) (granting motion
 5 to relate where the cases were all “actions brought by or against Takeda Pharmaceutical
 6 Company, Limited, Takeda Pharmaceuticals U.S.A., Inc., and Takeda Pharmaceuticals
 7 America, Inc.”). In addition, the putative class Plaintiff seeks to certify in *Favor* consists of
 8 *Favor* users. In contrast, the putative class in *GoodRx* consists of *GoodRx* users, of which there
 9 is no allegation of overlap with *Favor* users.

10 *Second*, the two actions involve different property, transactions, and events. The cases
 11 involve different property; that is, user data from different users and from different companies.
 12 *Favor* was brought by a *Favor* user against *Favor*, Meta, FullStory, and Tiktok, alleging that
 13 *Favor* disclosed user data to Meta, Fullstory, and TikTok without the consent of *Favor* users. In
 14 contrast, *GoodRx* was brought by a *GoodRx* user against *GoodRx*, Meta, Google, and Criteo,
 15 alleging that *GoodRx* disclosed user data to Meta, Google, and Criteo without the consent of
 16 *GoodRx* users. Not only are the users in each case different, the user data allegedly disclosed is
 17 different as well. *See, e.g., Hynix Semiconductor Inc. v. Rambus Inc.*, 2008 WL 3916304, at *2
 18 (N.D. Cal. Aug. 24, 2008) (denying motion to relate because the cases concerned substantially
 19 different patents and products).

20 *Third*, the cases involve different technology: Plaintiff in *GoodRx* does not (and could
 21 not) allege that Google receives, processes, maintains and uses data from *GoodRx* in the same
 22 way that Meta and Criteo do; Plaintiff in *GoodRx* also obviously does not allege anything
 23 suggesting Google employs the same technology as FullStory or Tiktok. Because the analytics
 24 providers other than Meta do not overlap, there will be little efficiency gained by relating the
 25 two cases. *See Adobe Sys. Inc.*, 2016 WL 9105173, at *3 (declining to relate cases in which
 26 “different software products are at issue in each case.”); *Hynix Semiconductor Inc.*, 2008 WL
 27 3916304, at *2 (denying motion to relate because the cases would “require an understanding of
 28

1 a different, albeit related, technology.”). Unlike *Pepper v. Apple Inc.*, where the related cases
2 were brought against only *one* defendant—Apple, Inc.—and concerned only Apple Inc.’s
3 technology, these cases involve five different analytics defendants and at least five different
4 technologies. 2019 WL 4783951, at *1 (N.D. Cal. Aug. 22, 2019).

5 *Finally, GoodRx and Favor* involve different disclosures about the sharing of user data.
6 Favor and GoodRx necessarily have differing privacy policies with different disclosures to their
7 users, and each analytics provider has different agreements with its customers (i.e., GoodRx or
8 Favor) about the use of the customer’s user data.

9 **B. Keeping *GoodRx* and *Favor* Separate Would Not Result in Duplication of
10 Labor, Expense, or Conflicting Results**

11 Keeping *GoodRx* and *Favor* separate would not cause a duplication of labor, expense, or
12 conflicting results because they involve different parties, data, and technology. *See* L.R. 3-
13 12(a)(2).

14 **IV. CONCLUSION**

15 The Court should deny Meta’s administrative motion to relate *GoodRx* to this action.

16
17 Respectfully submitted,

18 **WILLKIE FARR & GALLAGHER LLP**

19 Dated: February 21, 2023

20 By: /s/ Benedict Y. Hur

21 Simona Agnolucci

22 Benedict Y. Hur

23 Eduardo E. Santacana

24 Tiffany Lin

25 Yuhan Chi

26
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28 *Attorneys for Defendant GOOGLE LLC*

CERTIFICATE OF SERVICE

I, Marsi Allard, hereby certify that on February 21, 2023, I electronically filed the foregoing with the Clerk of the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

Pursuant to Civil Local Rule 3-12, I further caused true and correct copies of the foregoing to be served via email on counsel for the parties in *Jane Doe v. GoodRx Holdings, Inc. et al.*, No. 3:23-cv-00501-LB:

Christian Levis
Rachel Isabel Kesten
Amanda Grace Fiorilla
Lowey Dannenberg, P.C.
44 South Broadway, Suite 1100
White Plains, NY 10601
(914) 997-0500
clevis@lowey.com
(914) 733-7279
rkestens@lowey.com
(914) 733-7266
afiorilla@lowey.com

Robert C. Schubert
Willem F. Jonckheer
Amber Love Schubert
Schubert Jonckheer & Kolbe LLP
2001 Union Street
Suite 200
San Francisco, CA 94123
415-788-4220
415-788-0161 (fax)
rschubert@sjk.law
wjonckheer@schubertlawfirm.com
aschubert@sjk.law

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Marsi Allard

Marsi Allard